

that engages in representational activities with respect to terms or conditions of civilian employment.

#### **§ 888g.7 Responsibilities.**

(a) The Secretary of the Air Force is responsible for making determinations as required by § 888g.5(c)(2) and 888g.5(d)(1), and for the selective application of such determinations to particular Air Force installations on a case-by-case basis. Guidelines for making these determinations are contained in § 888g.10. Section 888g.11 lists those Air Force installations where selective application has been invoked by the Secretary of the Air Force. Section 888g.12 lists those organizations which have been determined to present a clear danger to discipline, loyalty, or obedience to lawful orders of command.

(b) Installation commanders:

(1) Are responsible for enforcement of § 888g.5 (a), (b), (c)(1), and (e), which automatically apply to all personnel and § 888g.5 (c)(2) and (d)(1) after a determination is made by the Secretary of the Air Force.

(2) Will gather the facts and data needed by the Secretary of the Air Force to make determinations required by this part. The limitations on obtaining information on persons or organizations not affiliated with the Department of Defense imposed by part 954 of this chapter will be strictly complied with.

(3) Will report through intermediate commanders to their major commander, with information to HQ USAF/DPXX/JACM, Pentagon, Washington, DC, all incidents concerning requests for permission or attempts to engage in activities prohibited by this part. The checklist/form at § 888g.13 will be utilized for submitting these reports.

(4) Will post notices of the determinations made by the Secretary of the Air Force affecting their installation which clearly state:

(i) That the identified organization poses a clear danger to discipline, loyalty, or obedience to lawful orders, including the reason upon which the determination is based, and

(ii) That knowing, active membership in that organization by a military member with the intent to promote

such prohibited conduct is not permitted.

(c) Intermediate commanders will resolve incidents or provide guidance to installation commanders as appropriate, or request assistance or additional guidance from HQ USAF/DPXX/JACM. HQ USAF/DPXX/JACM will be an information addressee on all correspondence and messages concerning activities addressed by this part and reports of guidance and action taken.

(d) HQ USAF/DPXX/JACM is the Air Staff focal point for activities related to this part, and will provide staff support to the Secretary of the Air Force in making determinations required by this part.

(e) Air Force officers and non-commissioned officers, especially unit commanders, senior enlisted advisors and first sergeants, are responsible for insuring that Air Force personnel are aware of the policies, rights and responsibilities expressed herein, and all personnel are responsible for assisting installation commanders in identifying incidents and/or conduct prohibited by this part.

#### **§ 888g.8 Situational guidance.**

To assist installation and intermediate commanders in dealing with activities prohibited by this part, guidance for typical situations is provided in § 888g.14. This guidance is for example only and is not intended to override the judgment of individual commanders or the advice of their staff judge advocates.

#### **§ 888g.9 Military union incident, RCS HAF-DPX(AR) 7701.**

The reports specified in § 888g.7(b)(3) will be furnished as required to HQ USAF/DPXX/JACM. The reports will be submitted by electrical message in the format of § 888g.13. During periods when MINIMIZE is imposed, commanders will consider the severity of the activity in approving electrical transmission.

#### **§ 888g.10 Guidelines for making determinations.**

This part requires that certain determinations be made on the basis of facts that exist at particular installations.

## Department of the Air Force, DoD

## § 888g.13

The guidelines for making these determinations are:

(a) A person or organization poses a clear danger to the discipline, loyalty, or obedience to lawful orders when the person or organization, or any person on behalf of the organization, engages in, solicits, or aids and abets any act prohibited by this part, or violates or conspires to violate 18 U.S.C. 1382, or solicits or aids and abets a violation of Articles 82, 85, 86, 87, 89, 90, 91, 92, 94, 108, 109, 115, 116, 117 or 128 of the Uniform Code of Military Justice. In making this determination, the history and operations of the organization (including the constitution and bylaws, if any) or person in question may be evaluated along with evidence with respect to the conduct constituting a prohibited act. In addition, there must be sufficient evidence to support a conclusion that the person or organization is substantially likely to engage in a prohibited act.

(b) In determining whether commission of a prohibited act by individual members of an organization can be attributed to that organization, examples of factors which should be considered include: the frequency of such act; the position in the organization of persons committing such act; whether the commission of such act was known by the leadership of the organization; and whether the commission of such act was condemned or disavowed by the leadership of the organization.

(c) In determining whether individual contact or posting for public display of any poster, handbill, or other writing constitutes or includes an invitation to collectively engage in an act prohibited by this regulation, specific language of the conversation or written material will be considered. In the case of individual conversations, determinations will be sensitive to protection of First Amendment rights of free speech.

(d) In making the decision that a military member of the Air Force is an "active" member of the organization in question, membership must be more than merely nominal or passive. Normally a person can be considered an active member if he or she engages in certain kinds of conduct for the organization. This conduct includes solici-

tion or collection of dues, membership recruitment, distribution of literature, service as an officer of the organization, or frequent attendance at meetings or activities of the organization.

(e) In deciding that a military member knows about the prohibited conduct engaged in by the organization, such knowledge may be inferred if the notice specified in § 888g.7(b)(4) has been properly posted.

(f) In deciding that a military member intends to promote the prohibited conduct engaged in by the organization, his or her conduct and/or participation in the organizational activities which constitute active membership will be considered.

**§ 888g.11 Air Force installations where provisions of this part have been invoked by the Secretary of the Air Force. [Reserved]**

**§ 888g.12 Organizations determined by the Secretary of the Air Force to present a clear danger to Air Force discipline, loyalty or obedience to lawful orders. [Reserved]**

### § 888g.13 Reporting format.

#### Priority Message

To: Intermediate Commanders and Majcom.  
Info: HQ USAF/DPXX/JACM.  
Subject: Military Union Incident, RCS HAF-DPX(AR) 7701.

A. Name of installation.

B. Type of incident (request or attempt for negotiation or collective bargaining, strike or other concerted action, solicitation or request for recruitment, distribution of literature, active membership, or other prohibited activity).

C. Name(s) of individual(s) or organization.

D. Narrative statement of incident.

E. Brief summary of constitution, bylaws, statement of purpose submitted by the individual or organization, or other information and the source to provide sufficient data for SECAF determination.

F. Summary of commander's action.

NOTE 1: Information and data gathered on persons or organizations not affiliated with the Department of Defense will be in accordance with AFR 124-13.

NOTE 2: During periods when minimize is imposed, commanders will consider the severity of the activity before approving electrical transmission.